



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/170029

PRELIMINARY RECITALS

Pursuant to a petition filed November 10, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Calumet County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 10, 2015, at Chilton, Wisconsin.

The issue for determination is whether Calumet County Department of Health Services (the agency) correctly calculated the Petitioner's FoodShare benefits.

NOTE: The record was held open until December 16, 2015, to give the Petitioner an opportunity to submit documentation regarding his out of pocket medical expenses and dental insurance premiums.

The Petitioner submitted a print out of prescription expenses. It has been marked as Exhibit 8 and entered into the record. The Petitioner did not provide documentation to Hearings and Appeals regarding any additional medical expenses.

The agency submitted an adjusted FoodShare budget accounting for an increase in homeowner's insurance. It has been marked as Exhibit 9 and entered into the record.

The agency indicated that it would issuing a notice of proof needed (due December 21, 2015) to verify the out-of-pocket medical expenses that the Petitioner reported at the hearing. Mr. Birkey was instructed to contact me concerning any adjustments in Petitioner's income.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Mitch Birkey, Economic Support Manager
Calumet County Department of Human Services

206 Court Street
Chilton, WI 53014-1198

ADMINISTRATIVE LAW JUDGE:
Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Calumet County.
2. On September 23, 2015, the agency sent the Petitioner a notice that his FoodShare benefits would be ending effective November 1, 2015, because his household was over the program's income limit. (Exhibit 4)
3. On or about October 31, 2015, the Petitioner reapplied for benefits. (Exhibit 5)
4. On November 6, 2015, the agency sent the Petitioner a notice, advising him that his application was denied because his household was over the income limit. (Exhibit 5)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 10, 2015. (Exhibit 1)
6. The Petitioner contacted the agency regarding the denial. The agency discovered that it was counting self-employment income that was no longer being received. So, on November 11, 2015, the agency sent the Petitioner a notice, indicating that his October 31, 2015 application was approved and that for November he would receive \$43.00 in benefits and that for December going forward he would receive \$62.00 in benefits per month. (Exhibit 6)
7. Mr. Birkey reviewed the case and determined that Petitioner's benefits should not have been prorated in November, so issued a supplement, so Petitioner received a total of \$62.00 per month in benefits from November going forward. (Testimony of Mr. Birkey)
8. Petitioner is over age 60. (Testimony of Petitioner)
9. Petitioner's household consists of three people. (Exhibit 7)
10. Petitioner receives \$682 per month in Social Security retirement income. (Testimony of Petitioner)
11. Petitioner's daughter works 40 hours per week and earns \$11.00 per hour. So, her income works out to be:

$$40 \text{ hours per week} \times \$11.00 \text{ per hour} \times 4.3 \text{ average weeks per month} = \$1892 \text{ average income per month.}$$

(Exhibit 3)
12. Petitioner pays \$658.73 per month for his mortgage; \$361.13 per month for property taxes, and \$138.25 per month for homeowner's insurance. (Testimony of Petitioner; See also Exhibit 9)
13. On December 10, 2015, the agency adjusted the Petitioner's FoodShare budget, to account for an increase in home owner's insurance reported during the hearing, so Petitioner's allotment increased to \$77.00 per month, effective January 1, 2015. (Exhibit 9)

DISCUSSION

To be categorically eligible, most FoodShare groups must have income at or below 200% of the Federal Poverty Level (FPL). *FoodShare Wisconsin Handbook (FSH) §4.2.1.1; 7 CFR 273.2(j)(2).*

200% of FPL for an assistance group of 4 is \$4042 per month. *FSH §8.1.1.1* Thus, Petitioner is categorically eligible for FoodShare benefits, because her income of \$2576.93 is below 200% of FPL.

Once a household passes the gross income test, the following deductions are applied in determining the household's net income:

- (1) a standard deduction –

This is \$155 per month for a household of 1-3 people, *7 CFR § 273.9(d)(1)*:
 \$168 for four people
 \$197 for five people
 \$226 for six or more people

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;

For Petitioner this was: \$1892 x 20% = \$378.40

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;

The Petitioner provided verification of out-of-pocket prescription costs in Exhibit 8. However, when averaged over the year, the monthly expense is less than \$35. As such, no deduction is allowed at this time.

- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5)*.

The standard utility allowances are as follows:

HSUA – Heating Standard Utility Allowance	\$458
LUA – Limited Utility Allowance	\$293
EUA – Electric only Utility Allowance	\$119
WUA-Water and Sewer only Utility Allowance	\$78
FUA- Cooking Fuel Allowance	\$46
PUA- Phone only Utility Allowance	\$30
TUA – Garbage and Trash Utility Allowance	\$20

Because Petitioner has a heating expense, he is entitled to the full HSUA deduction of \$458.

FSH, §§ 4.6.7.1 and 8.1.3.

Petitioner's total household income works out to be as follows:

\$1892.00 daughter's earned income
+\$682.00 Petitioner's SSRE benefits
<hr/>
\$2574.00 total household income

Applying the applicable deductions to Petitioner's income we have the following net income calculation, effective January 1, 2016:

Gross Income	\$2574.00	Mortgage	\$658.73
Earned Income Deduction	-\$378.40	Insurance	+\$138.25
Standard Deduction	-\$155.00	Property Tax	+\$361.13
Medical Expenses exceeding \$35		HSU	+\$458.00
No Dependent Care Expenses		-50% net income	-\$ 1020.30
		<u>before shelter deduction</u>	
Net Income before shelter deduction	\$2040.60	Excess Shelter Expense: \$595.81	
Excess Shelter Expense	- \$595.81		
Net Income	\$1444.79		

Households of three individuals with a net income of \$1444.79 are eligible for \$77.00 per month in Foodshare benefits. *FSH §8.1.2* So, the agency correctly calculated the Petitioner's benefits for January 2016 going forward. (The increase in homeowner's insurance was not reported until the December hearing, and so, would not affect benefits, until January 2016).

Looking at the budget print out for November 2015 going forward, I can find no error in that calculation either. The only difference between the calculation for November 2015 and January 2015, is the amount reported for homeowner's insurance. At the time the Petitioner reapplied for benefits on October 31, 2015, he reported homeowner's insurance of \$88.16 per month, but at the December 2015 hearing, he reported that his homeowner's insurance cost \$138.25 per month. (See Exhibits 6 and 7)

The Petitioner should note that if he can produce verification of out-of-pocket medical expenses that exceed \$35.00 per month, he should report that as a change to the county agency.

CONCLUSIONS OF LAW

The agency correctly calculated the Petitioner's FoodShare allotment.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

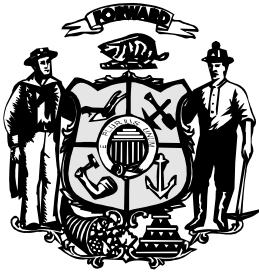
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 4th day of January, 2016

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 4, 2016.

Calumet County Department of Human Services
Division of Health Care Access and Accountability